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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 4769/2024**

MOHD ZAKIR

.....Petitioner

Through: Mr. Chaman, Advocate.

versus

THE STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Raj Kumar, APP for the State
alongwith SI Sujata.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

12.02.2025

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1. The present bail application under Section 482 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter 'BNSS') has been filed on behalf of the applicant seeking grant of anticipatory bail in case arising out of FIR No. 549/2024 registered under Sections 69/351(2)/123 of the Bharatiya Nyaya Sanhita, 2023 (hereafter 'BNS') at Police Station Khajuri Khas, Delhi.

2. Briefly stated, the facts of the present case are that the complainant, an illiterate woman, had allegedly been deceived by the accused/ applicant Zakir, who had initially befriended her and had falsely promised marriage despite the complainant informing him that she was already married and had children. As per statement of the complainant given to the IO, she had



stated that in the year 2020, she had come into contact with the accused, Zakir, who was her neighbourer. Their acquaintance grew as their children were friends, leading to frequent visits between their families. Over a period of time, Zakir had taken her phone number and had initiated conversations, which eventually led to a mutual romantic relationship. She further states that in December 2020, they had their first consensual physical relation at Zakir's house, and the relationship continued until June 2024. In the FIR, the complainant had alleged that on 20.08.2024, the accused had called the complainant to his house under the pretense of discussing an important matter and had offered her juice, which was allegedly mixed with an intoxicant. After consuming it, the complainant had allegedly lost consciousness, and upon regaining her senses, she had experienced pain in her private parts, leading her to believe that the accused had established physical relations with her without her consent. When the complainant had confronted him, the accused had allegedly threatened her with dire consequences if she reported the incident to anyone. Out of fear, the complainant had refrained from filing a complaint. Subsequently, on 10.09.2024, the accused had allegedly blackmailed the complainant by showing her a video of the incident and had coerced her into meeting him at another location, where he had again allegedly forcibly established physical relations with her. Later, when the complainant had informed the accused/ applicant of her pregnancy, the accused had insisted that she abort the child and had refused to take any responsibility. According to the complainant, the accused had bluntly told her that the



accused/ applicant would not marry her and had challenged the complainant to take any legal action against him. The complainant, left abandoned and in distress, had ultimately approached the police and lodged the present complaint seeking legal action against the accused/ applicant.

3. The learned counsel for the applicant/ accused argues that the allegations are false, fabricated, and motivated by malice. It is argued that the complainant had admitted in her statement to the IO on 25.10.2024, that she had voluntarily entered into a consensual relationship with the applicant. It is argued that she has falsely claimed to have obtained a divorce from her husband on 09.08.2024, which was later found to be untrue. Despite attributing her pregnancy to the applicant, she continues to maintain conjugal relations with her husband, raising doubts about her claims. The alleged false promise of marriage is legally untenable as she is still legally married to her husband. Her demand for Rs. 20 lakhs and a house indicates an ulterior motive to extort money from the accused. The applicant has known the complainant since 2020, has supported her financially and had also arranged legal aid for her father in a case against him. Instead of acknowledging his help, a false case has been filed to harass him. The applicant is the sole breadwinner for his family, including ailing parents and his daughter has undergone surgery. It is further stated that the applicant is not a flight risk and is willing to cooperate with the investigation. Thus, it is prayed that the applicant be granted anticipatory bail.



4. The learned APP appearing on behalf of the State vehemently opposes the present application and argues that the present case involves a very serious offence and if the applicant is granted bail he can interfere with the investigation proceeding by contacting the witnesses. Therefore, it is the contention of the learned APP that the applicant be denied bail at this stage.

5. This Court has heard arguments advanced on behalf of both the parties, and has perused the material available on record.

6. The allegations against the present applicant/accused, in brief, are that he had deceived the complainant with a false promise of marriage, intoxicated her, and had forcibly established physical relations with her. It has also been alleged that the applicant had later blackmailed her using a recorded video, coerced her into further sexual assault on many occasions and had later abandoned her upon learning of her pregnancy, refusing to own responsibility and had dared her to take legal action against him.

7. The Call Detail Records (CDRs) reveal that the complainant had made multiple calls to the applicant, including four calls on the day of the alleged incident and thirty-three calls on prior occasions, demonstrating continuous communication and familiarity between them. Additionally, the images submitted further reinforce the consensual nature of their association. In light of this, the allegations of coercion and deceit *prima facie* appear inconsistent with the documented interactions between the parties.



8. The complainant's case is that she had divorced her husband with the expectation that the applicant would marry her and accept the child born from their relationship. There is nothing on record to suggest that the petitioner herein has divorced her husband. The petitioner as well as the complainant were already married to different partners when they entered into this relationship. The inappropriate video clips allegedly prepared by the accused of the complainant were not recovered. It is not denied that the accused has joined the investigation. The chargesheet in this case has already been filed without arrest of the accused, pursuant to his joining investigation as he had been granted interim protection from arrest, by this Court.

9. Thus, considering the overall circumstances of the case, including the facts that nothing is to be recovered at the instance of the petitioner and he has already joined the investigation, this Court is inclined to grant anticipatory bail to the petitioner. In event of arrest, he shall be released on his furnishing a personal bond in the sum of Rs.15,000/- with one surety of the like amount to the satisfaction of the SHO/I.O concerned on the following terms and conditions:

- i) The applicant shall remain available on the mobile numbers; shared by him with the Police.
- ii) The applicant shall not leave the country without prior permission of the concerned Court.



iii) The applicant shall not directly or indirectly make an attempt to influence the witnesses or tamper with the evidence in any manner.

iv) In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned I.O./SHO.

10. Accordingly, the present application is allowed and disposed of in the aforesaid terms.

11. However, nothing expressed herein above shall tantamount to an expression of opinion on the merits of the case.

12. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 12, 2025/vc

Click here to check corrigendum, if any